

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOHN ROBERT DEMOS, JR.,

Plaintiff,

v.

UNITED STATES,

Defendant,

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No. 4:15CV1048 JAR

MEMORANDUM AND ORDER

Plaintiff moves for reconsideration of the Court’s Order finding that he has three strikes under 28 U.S.C. § 1915(g) and therefore must pay the entire filing fee before proceeding with this action. Plaintiff’s arguments are frivolous. The motion is denied.

Petitioner argues that the three strikes provision is unconstitutional. He further argues that the laws of the United States do not apply to him because he is a sovereign citizen of Morocco and is entitled to diplomatic immunity. Plaintiff has presented several fictitious treaties in support of his immunity claim.

The Courts of Appeals have consistently held that the three strikes provision of § 1915(g) is constitutional. *See Higgins v. Carpenter*, 258 F.3d 797, 799 (8th Cir. 2001) (“§ 1915(g) . . . does not violate equal protection.”); *Ball v. Famiglio*, 726 F.3d 448, 452 (3d Cir. 2013) (“§ 1915(g) does not block a prisoner’s access to the federal courts. It only denies the prisoner the privilege of filing before he has acquired the necessary filing fee.”). Consequently, plaintiff’s constitutional challenge to the provision fails as a matter of law.

The United States Courts have uniformly rejected claims of sovereign immunity or diplomatic immunity by purported citizens of fictitious nations. *See, e.g., Benton-El v. Odom*,

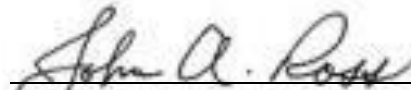
2007 WL 1812615 *6 (M.D. Ga. June 19, 2007); *Osiris v. Brown*, 2004 WL 2044904 *2 (D.N.J. Aug. 24, 2005); *Khattab El v. United States Justice Dept.*, 1988 WL 5117 *2 (E.D. Pa. Jan. 22, 1988). Petitioner cannot unilaterally bestow sovereign immunity upon himself. *See United States v. Lumumba*, 741 F.2d 12, 15 (2d Cir. 1984). As a result, his immunity claim is frivolous.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for reconsideration [ECF No. 3] is **DENIED**.

IT IS FURTHER ORDERED that if plaintiff fails to pay the \$400 filing fee by **August 5, 2015**, this action will be dismissed without further notice.

Dated this 31st day of July, 2015.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE